
**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

ESPERANZA APRIL HERNANDEZ,

Petitioner,

v.

USA,

Respondent.

**MEMORANDUM DECISION
AND ORDER**

Case No. 2:22-CV-219-HCN

Howard C. Nielson, Jr.
United States District Judge

On January 25, 2021, Petitioner, Esperanza April Hernandez pleaded guilty to one count of conspiracy to distribute methamphetamine in violation of 21 U.S.C. §§ 841(a) and 846. *See* Case. No. 2:20-cr-197, Dkt. No. 349. On April 13, 2021, the court accepted a plea agreement that Ms. Hernandez had reached with the Government under Federal Rule of Criminal Procedure 11(c)(1)(c) and sentenced Ms. Hernandez to 192 months' incarceration as provided by the plea agreement. *See id.*, Dkt. No. 448.

On March 28, 2022, Ms. Hernandez filed a motion to reduce her sentence under 28 U.S.C. § 2255. *See* Dkt. No. 1. On June 15, 2022, the court dismissed each of Ms. Hernandez's three claims for relief but provided Ms. Hernandez the opportunity to file an amended motion within 30 days seeking to have her guilty plea and resulting conviction vacated, rather than her sentenced reduced, based on her first claim for relief. *See* Dkt. No. 2. The court warned Ms. Hernandez that failure to file a timely amended motion could result in dismissal of this action. *See id.* at 7. On July 26, 2022, Ms. Hernandez sought an extension of time to amend her motion, and the court granted a 45-day extension on July 29, 2022. *See* Dkt. No. 4. After Petitioner failed

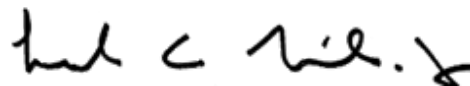
to file an amended motion within 45 days, the court issued an order on November 8, 2022, requiring Ms. Hernandez to file, no later than December 9, 2022, either an amended motion or a brief showing cause why her Section 2255 motion should not be denied. *See* Dkt. No. 5. The court warned that failure to do so would result in the denial of her Section 2255 motion and the entry of judgment against her. *See id.* at 2.

Although more than one month has passed since the December 9, 2022 deadline, Ms. Hernandez has not filed an amended Section 2255 motion. Nor has she filed a brief showing cause, requested an extension, or otherwise communicated with the court. Ms. Hernandez has thus disregarded the court's order despite explicit warning that doing so would result in the denial of her Section 2255 motion and the entry of judgment against her. The Motion to Vacate, Set Aside or Correct Sentence is accordingly **DENIED**. A certificate of appealability is also **DENIED**.

IT IS SO ORDERED.

DATED this 11th day of January, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "H.C. Nielson, Jr.", written over a horizontal line.

Howard C. Nielson, Jr.
United States District Judge